IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11428 of 2004

Between:

1 Gollapalli Venkataraju S/o. Appanna
E.G.District. Mallepalli (v) Gandepalli Mandal,
2 Kantipudi Seshamma W/o. China Appa Rao
R/o. Chandredu (v) Rangampet Mandal, E.G.Dist.
3 Domma Venkataraju S/o. Venkanna
R/o. Mallepalli (v)_ Rangampet Mandal, E.G.dist.
4 Vundavalli Rama Rao S/o. Suraiah
R/o. Chandredu(v) Rangampeta mandal, E.G.Dist.
5 Darlanka Satyanarayana S/o. Suryarao
Mallepalli (v) Gandepalli Mandal, E.G.Dist.
6 Ravipati Padmaraju S/o. Suryarao,
R/o. Mallepalli(v) Gandepalli Mandal, E.G.dist.
7 Vundamatla Sivaiah S/o. Doraiah
R/o. Mallepalli(v) Gandepalli Mandal, E.G.Dist. **..... PETITIONERS**

AND

1. Endowments Dept., represented by the Asst. Commissioner, Danavaipeta,

Rajahmundry, E.G.Dist.
2 Sri Seetharama Swamy Devasthanam, represented by the Executive

Officer, Mallepalli(v) Gandapalli Mandal, E.G.Dist. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction, declaring the action of the respondent No.2 in issuing the impugned public auction notice dt. 5.6.2004 for issuing lease hold rights in respect of the lands, which are in possession of the petitioners being cultivating tenants of the said lands i.e., in R.S.No. 531/1,2 Ac. 2.90 cents R.S.No.871 Ac. 4.20 cents R.S.Nos. 371,91,92, Ac. 3.00; R.S.No.900/1, Ac. 4.58, R.S.No.266 Ac. 4.63 cents R.S.No.706/1, Ac. 1.56 cents; and R.S. No. 398/2 Ac. 2.74 cents respectively, belong to respondent Devasthanam, situated at Mallepalli (v) Gandepalle Mandal, E.G.Dist, as illegal and contrary to law and also contrary to Rule 5 (2) of the Act and for a Consequential order directing the respondents not conduct the public auction on 6.7.2004 in respect of the above lands by evicting the petitioners herein from their respective

lawful possession of the lands.

Counsel for the Petitioners: MR.CH.DHANAMJAYA

For the Respondent No.1: The Government Pleader for Endowments.

Counsel for the Respondent No.2: SMT.N.INDRANI

The Court made the following:

ORDER:

1. This writ petition is filed by the petitioners seeking issuance of writ of Mandamus declaring the action of the second respondent in proposing to conduct public auction in respect of the lands in possession of the petitioners for a period of three years from 2004-2005 to 2006-2007 as illegal and arbitrary.

2. According to the petitioners, they are all land less poor persons in terms of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') read with Rules framed under G.O.Ms.No.379 dated 11-03-2003. Therefore, the respondents are not entitled to proceed with the public auction of the leasehold rights unless and until the status of the petitioners is decided by the first respondent. It is also contended in the affidavit that without proper notice, the second respondent is proceeding to hold public auction. Therefore, even on that ground also the public auction is required to be stalled. Hence, the present writ petition.

3. At the time of hearing, learned Counsel for the petitioners also contended that the petitioners had made representations before the first respondent seeking declaration that they are landless poor persons in terms of the provisions of the Act and the Rules framed under the said G.O., therefore, sought for appropriate direction to the first respondent to decide the issue.

4. Learned Counsel for the second respondent, however, contended

that notice under Rule 5(1) of the Act was issued in 2003. In spite of the same the petitioners had approached the first respondent only when the public auction notice was issued in 2004. Even on merits also, it is contended that the third petitioner is tenant with reference to Ac.11.90 cents of land belonging to the second respondent-temple apart from owning more than Ac.10-00 of land on his own. Therefore, admittedly, third petitioner is not entitled to any benefits and, therefore, he is liable to be evicted. While with reference to others, it is stated that their claims may be directed to be adjudicated upon by the first respondent. It is also represented that first, third and seventh petitioners are in arrears of rent for the past years.

5. Heard both sides and considered the material on record.

6. In view of the representations made by the petitioners before the first respondent, the first respondent is directed to consider the claims of the petitioners except third petitioner and dispose of the same expeditiously preferably within a period of two months from the date of receipt of a copy of this order and till the disposal of the said representations of the petitioners except the third petitioner, the second respondent is directed not to proceed with the auction of the land in their possession. With reference to the third petitioner, as admittedly he is a tenant with reference to Ac.11-90 cents apart from owning more than Ac.10-00 on his own, he is not entitled to any benefits under the provisions of the Act and the Rules framed under the said G.O., as he is owning more than the land prescribed under the provisions of the Act. Apart from that, the second respondent also issued notice under Rule 5(1) of the Act as early as in 2003, therefore, the respondents are entitled to evict the third petitioner from the possession of the land in question.

7. With reference to the arrears, first and seventh petitioners are directed to pay the arrears within a period of four weeks from today, failing which their claims would not be adjudicated upon by the first respondent and their claims are liable to be rejected for failure to pay rents due to the second respondent-temple. Third petitioner is

directed to pay the arrears within a period of four weeks from today, failing which the respondents are entitled to take up appropriate proceedings to recover the rents.

8. With the above directions, the writ petition is disposed of. No costs.

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13-07-2004

ghn/kvh

To

1 The Asst. Commissioner, Endowments Dept., Danavaipeta, Rajahmundry, E.G.Dist.
2 Executive Officer, Sri Seetharama Swamy Devasthanam, Mallepalli(v) Gandapalli Mandal, E.G.Dist.

3. Two CCs to the Government Pleader for Endowments, High Court Buildings, Hyderabad.(O.U.T.)

4. Two CD copies.